IN THE HIGH COURT OF JUDICATURE AT BOMBAYCIVIL

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5122 OF 2005

H.B.Mishra .. Petitioner
v/s.
Union of India and another .. Respondents

Mr.S.R.Saxena for the petitioner.

Mr.Y.S.Bhate i/by Mr.S.S.Sarkar for the respondents.

CORAM : R.M.LODHA &
NARESH H. PATIL, JJ.

DATED : 31ST JULY, 2006.

P.C.

The statement of imputation of misconduct or misbehaviour for the disciplinary action that was proposed against the petitioner reads thus-

> "Shri H.B.Mishra, PA, Andheri R.S.P.O. Addressed a petition to Hon. Shri K.R.Narayan, President of India, Rashtrapati Bhavan, New Delhi-110 004 for taking suitable action against the official Shri S.V.Narayankar and Shri S.B.Bajare, Gazetted Officers alleging that these officers have given false evidence on oath in Court of Law. The petitioner was received by Presidents Office and sent to Department of Posts from where it was forwarded and sent to Department of Posts from where it was forwarded to Circle Office."

2. Rules 115 and 614 of the P & T Manual read thus-

> "115. Any representation which is not an appeal within the meaning of rule 110 above, should be designated as a petition. A petition, when not made against a decision on a previous communication, should be addressed to the authority competent to pass orders on the subject-matter and should be submitted through the proper channel.
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> 614. Unless it is otherwise prescribed in the rules or in any special order, no officer should correspond direct with an authority superior to the officer to whom he is immediately subordinate except in reply to communications received direct by him."

3. The bare perusal of these rules would show that there is no merit in the contention of the counsel for the petitioner that the alleged misconduct is not covered by Rules 115 and 614.

4. The learned counsel for the petitioner then contended that no enquiry was held to enquire into the charges against the petitioner. The counsel admitted that the punishment that has been awarded to the petitioner is not major punishment. No rule was cited before us to show that an enquiry into the charges was imperatively required under the rules for minor punishment. That the principles of natural justice were fully satisfied are clear from the fact that a notice was given to the petitioner on 6.12.2002 that an action under Rule 16 of the CCS(CCA) Rules, 1965 is proposed against him; the statement of imputation of misconduct or misbehaviour was annexed thereto and he was asked to make such representation as it though fit against the proposed action.

Thus, we are satisfied that there was no violation of the principles of natural justice.

5. Then the counsel for the petitioner submitted that the reduction of the pay of the petitioner in the scale of Rs.4,000/- to 6,000/- from Rs.5,800/- to Rs.5,700/- for a period of 35 months for the said misconduct, is grossly disproportionate and far too excessive. We are afraid, neither the Tribunal nor this court will be justified to sit in the appeal over the punishment awarded by the Disciplinary Authority when the said decision has been taken by the authority competent to take decision in the light of all the relevant facts and circumstances.

6. We find ourselves in agreement with the view of the Central Administrative Tribunal. No case for interference in the impugned order is called for. Writ petition is dismissed.

(R.M.LODHA, J.)

(NARESH H. PATIL, J.)